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Attorney for Defendant Maricopa County
Community College District

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

CINDI TANNER, an individual,

Plaintiff,

v.

MARICOPA COUNTY COMMUNITY
COLLEGE DISTRICT, a political
subdivision of Arizona; MARIA WISE, an
individual and in her official capacity;
VIVIAN MIRANDA-STRAWBRIDGE, an
individual and in her official capacity,

Defendants.

NO.

**NOTICE OF REMOVAL OF ACTION
FROM STATE COURT TO FEDERAL
COURT**

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT, DISTRICT
OF ARIZONA**

Notice is hereby given that Defendant Maricopa County Community College District
("District") hereby removes the entire action described below from the Arizona State Court,
Maricopa County Superior Court, to the United States District Court, District of Arizona,
pursuant to 28 U.S.C. § 1446:

1 1. On or about January 9, 2018, Plaintiff Cindi Tanner filed in the Maricopa
2 County Superior Court, in cause no. CV 2018-092895, an action naming as Defendants the
3 District, Maria Wise, and Vivian Miranda-Strawbridge. The following documents were
4 filed on January 9, 2018 to initiate the action:

5 (A) a Complaint (a true and accurate copy of which is Exhibit A attached hereto);

6 (B) a Certificate of Compulsory Arbitration (a true and accurate copy of which is
7 Exhibit B attached hereto);

8 (C) a Civil Cover Sheet (a true and accurate copy of which is Exhibit C attached
9 hereto)

10 2. In the Complaint, Plaintiff alleges causes of action arising under and for
11 violation of federal law: the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12132,
12 12203 and the Rehabilitation Act, 29 U.S.C. § 794, asserting claims for retaliation; and the
13 Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 206-207 asserting claims for failure to
14 pay minimum wages or overtime wages. (Ex. A, Complaint p. 1 and ¶ 89-95, 117-119)
15 Such claims support original federal question jurisdiction of this Court pursuant to 28
16 U.S.C. §§ 1331, 1343, 1988. A direct original action can be filed in federal court as well
17 pursuant to 29 U.S.C. §§ 216(b), 794a, and/or 42 U.S.C. § 12133.

18 3. The State Court action is removable to this Federal Court pursuant to 28
19 U.S.C. § 1441(a)-(c) because this Court would have original jurisdiction over the federal
20 law claims under the ADA, the Rehabilitation Act and the FLSA.

21 4. This Court would have supplemental jurisdiction over the state law claim for
22 wrongful termination and statutory claims pursuant to A.R.S. § 23-1501 and 38-532 (Ex. A,
23 Complaint ¶ 97-103), intentional infliction of emotional distress (Ex. A, Complaint ¶ 105-
24 115, and the claim for unpaid wages under A.R.S. § 23-355. 28 U.S.C. § 1367. The
25 conduct, including the termination of employment and pre-termination acts, asserted to be
26 retaliation under the ADA and RA appear to be the same or substantially the same as the
27 conduct supporting the wrongful termination and statutory claims, as well as the claim for
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1 intentional infliction of emotional distress. (Ex. A, Complaint ¶ 12-73, 88-115) The state
2 law wage claims appear to be for the same wages sought under the FLSA. (Ex. A,
3 Complaint ¶ 80-86, 116-119) The various state law claims appear to be so related to the
4 federal statutory claims as to form the same case or controversy under Article III of the
5 United States Constitution.

6 5. All Defendants who have been properly served join in this removal.
7 Defendants Wise and Miranda-Strawbridge, whose true legal last name is Miranda-
8 Wendelken, deny they were properly served with process as they did not authorize anyone
9 to accept service on their behalf and they were purported to be served through a person in
10 the Human Resources department of the College where they work. Exhibits D, E and F to
11 this Notice are the Affidavits of Service filed with the Maricopa County Superior Court. If
12 they do appear in this lawsuit, such individuals will be represented by the same defense
13 counsel as the District and they would consent to this removal.

14 6. This removal is timely filed pursuant to 28 U.S.C. § 1446(b) as it was filed
15 within thirty days after receipt by Defendants, through service or otherwise, of a copy of the
16 initial pleading setting forth the claim for relief.

17 7. Attached hereto as Exhibits A through G are all process, pleadings, orders,
18 and documents filed in the State Court action. Exhibit G is a Notice of Appearance filed by
19 Defense Counsel on January 18, 2018 in the State Court.

20 8. Defendants shall be filing promptly a notice of removal with the State Court in
21 compliance with 28 U.S.C. § 1446(d) and will serve such notice on Plaintiff.
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1 DATED: February 2, 2018.

2 UDALL SHUMWAY PLC

3
4 /s/ David R. Schwartz

5 David R. Schwartz

6 Kimberly R. Davis

7 1138 North Alma School Road, Suite 101

8 Mesa, AZ 85201

9 Attorneys for Defendant Maricopa County
10 Community College District

11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on February 2, 2018, I electronically transmitted the attached
13 document to the Clerk's Office using ECF/CM for filing and transmitted the document
14 through ECF to the following registered ECF users:

15 Israel G. Torres

16 James E. Barton, II

17 Saman Golestan

18 TORRES LAW GROUP, PLLC

19 2239 W. Baseline Rd.

20 Tempe, AZ 85283

21 Attorneys for Plaintiff

22 /s/ Kimberly Kershner

23 Kimberly Kershner

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